

*Patent Office of Pete Tormey*  
*Registered US Patent Agent*  
2017 Esperanza Dr. Concord, CA 94519  
(925) 352-9842

4 April 2007

K. Brian Matlock  
Townsend, Townsend & Crew LLP  
2175 North California Blvd. Suite 600  
Walnut Creek, CA 94596

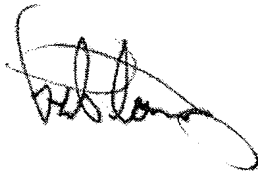
Dear Brian,

I have searched for evidence of commercial activity for BrightInfo's "vMerchant" product in a large selection of available business databases and found no record of sales activity prior to August 1999. Attached is a copy of a press release from August 23, 1999 in which BrightInfo announces it is entering the market for "eMerchandising" software with its first product, vMerchant. "The vMerchant application suite delivers personalization and merchandising of product, content, services and external business processes, resulting in a productive site with measurable results."

The search focused on the name, BrightInfo and products possibly named vMarketplace or vMerchant. The search also centered on data from before 1999. The databases searched were ABI/INFORM covering major business news such as *The New York Times*, *Washington Post*, *Los Angeles Times* and the *Wall Street Journal*. The data includes scholarly publications and financial market publications as well as less widely disseminated news sources from trade journals, tabloids, daily newspapers and local markets in the high technology sectors. The search included over 2 million cataloged dissertations and theses from academia and conference papers.

As you are aware it is not possible to uncover every possible evidence of sales activity, especially given the time constraint you requested. However, the August 23rd 1999 press release announcing the vMerchant product describes it as a "market entry" and as the company's "first" product. This should be sufficient for you to determine any publication dates.

Best Regards,



Pete Tormey

Copyright 1999 Business Wire, Inc.

**Date:** August 23, 1999, Monday

**DISTRIBUTION:** Business Editors/High-Tech Writers

**LENGTH:** 591 words

**HEADLINE:** **Brightinfo.com** Announces Entry Into the eMerchandising Arena; New Company to Offer Merchandising and Personalization Solutions to Power e-Retailing Websites

**DATeline:** MOUNTAIN VIEW, Calif.

**BODY:** Aug. 23, 1999-- **Brightinfo.com** today announced it has entered the market for eMerchandising software solutions. The company develops and sells technology for the eMarketplace/vertical portal environments.

**Brightinfo.com** provides an integrated application that eMarketers can use to create and maintain high-impact, high productivity web sites.

**Brightinfo's** first product, the vMerchant application suite, delivers personalization and merchandising of product, content, services and external business processes, resulting in a productive site with measurable results. As an integrated application suite, vMerchant includes an easy to use, web-based console, 24 pre-defined merchandising campaigns, profile and behavior-based personalization, real-time dynamic reporting and personalized email management.

As a sophisticated Java-based application, vMerchant easily integrates all these features into existing back-end transaction systems, legacy data and existing business process systems. "The vMerchant application puts the online merchandising experience in the hands of the merchants," said Lauren Freedman, president of the e-tailing group. "With the brightinfo.com application, merchants have the flexibility and quick turnaround to change their online site the same way they would dynamically promote their merchandise in their physical stores." According to Cheryl Traverse, brightinfo's president and CEO, "Our work with eMarketing experts has clearly shown that marketing, rather than IT, organizations must take responsibility for creating the customer experience. vMerchant has been created to give eMarketers tools to help them create dynamic merchandising campaigns, build their brand and weave existing business processes into the customer experience to create a dynamic productive online selling environment. The blending of products, services, content and business processes allow eMarketers to personalize each site visitor's experience, enabling each to control his or her own experience."

#### **About brightinfo.com**

Brightinfo.com provides solutions that power the eMarketplace. The company's first product, vMerchant, is a web-based application that helps emarketers attract and retain today's diverse range of customers through emerchandising management -- a closed loop cycle of creating online branding and merchandising campaigns for products, content and services; personalizing each visitor's experience; and measuring results. Brightinfo.com, Inc., is located in Mountain View, California, and on the Internet at [www.brightinfo.com](http://www.brightinfo.com).

Note to Editors: brightinfo.com and vMerchant are trademarks of brightinfo.com. All other marks are the property of their respective owners.

CONTACT: brightinfo.com  
Loretta Jones, 650/210-0200  
[loretta@brightinfo.com](mailto:loretta@brightinfo.com)

Hamilton Group Public Relations  
Michelle Corbett, 650/654-5836  
[michelle@hgpr.com](mailto:michelle@hgpr.com)